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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	GEN Docket No. 90-314
	)	ET Docket No. 92-100
	)	
Amendment of the Commission's	)	RM-7140, RM-7175, RM-7617,
Rules to Establish New	)	RM-7618, RM-7760, RM-7782,
Personal Communications	)	RM-7860, RM-7977, RM-7978,
Services	)	RM-7979, RM-7980
	)	
	)	PP-35 through PP-40, PP-79
	)	through PP-85

REPLY COMMENTS

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Dated: January 8, 1993

No. of Copies rec'd 0+9
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SUMMARY

Interstate Telephone Company, Valley Telephone Company and Shenandoah Telephone Company (collectively, the "Companies") propose that the Commission implement a method that we believe will promote the goals of universality, speed of deployment, diversity of service and competitive delivery of Personal Communications Services ("PCS").

The Companies propose that the Commission issue five (5) licenses of 20 MHz each. This allocation will assure the benefits of competition, and 20 MHz per licensee should be a sufficient spectrum size to implement low-cost PCS systems.

Of these licenses, at least two should be issued to nationwide consortia composed of a national manager and local operators. Centralized management, uniform specifications, nationwide infrastructure, economies of scale and coordinated marketing would all promote rapid, efficient and thorough development of PCS service. The presence of at least two nationwide licensees will promote innovation and competitive diversity.

A single comparative hearing would be a practical, efficient means of awarding these licenses to the most qualified applicants, particularly if the Commission implements strict requirements for financial and technical showings and other methods to minimize filings by unqualified applicants.

The goals of multiplicity and diversity would be further promoted by the issuing of the remaining licenses to smaller providers offering more customized services to local markets, on an MSA/RSA basis. Most mid-size or smaller regional providers of telecommunications services would not have sufficient capacity to serve larger regions such as "Basic Trading Areas" or "Major Trading Areas." Furthermore, the MSA and RSA designations recognize the inherent differences between metropolitan and non-metropolitan areas.

Finally, the Companies urge that local exchange carriers and cellular carriers be eligible for full, unrestricted PCS spectrum use in light of these carriers' demonstrated track record for performance and expertise, existing infrastructures and need to implement new technologies within their own industries.

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REPLY COMMENTS

Interstate Telephone Company, Valley Telephone Company and Shenandoah Telephone Company (collectively, the "Companies") respectfully reply to the comments filed in response to the FCC's Notice of Proposed Rule Making and Tentative Decision, FCC 92-333 (Aug. 14, 1992) ("Notice") proposing to allocate and license spectrum for a new family of Personal Communications Services ("PCS").[1/]

In releasing its Notice, the Commission emphasized: "We intend to ensure that all mobile services are provided with the highest quality at low cost, reasonable rates to the greatest number of consumers, consistent with the goals of the

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1/ The FCC amended its Notice by an Erratum, DA 92-1216 (Sept. 8, 1992).

Communications Act."[2/] To achieve this goal, the Commission concluded that it must optimize and balance four values:

1. Universality;
2. Speed of Deployment;
3. Diversity of Service; and
4. Competitive Delivery.

Some of the critical issues are: how many licenses should be issued and to whom; how should the licenses be allocated; and how should market size be defined. The Companies' position on these issues is set forth below.

I. INTRODUCTION

This proceeding seeks to establish the regulatory structure, spectrum allocation and licensing requirements for PCS. The Notice recognizes that PCS will have a great impact on the future development and configuration of all telecommunications networks, creating new markets and providing competition for existing services.[3/]

The Companies, through themselves and various affiliates, provide local exchange telephone and cellular services in various markets. Interstate and Valley Telephone Companies together serve 232 square miles of territory in West Central Georgia and East

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[2/] Notice at ¶6.

[3/] Notice at ¶4.

Central Alabama with a population of approximately 25,000. Interstate and Valley serve this customer base with digital switching technology, fiber optic ring facilities and other copper cable distribution. They have invested over $18.6 million in gross plant (including over $7.4 million in digital switching technology and almost $1.8 million in fiber optics systems) to bring state of the art telecommunications technology to their West Georgia/East Alabama customers. Shenandoah Telephone Company serves 591 square miles of territory in Northwestern Virginia, with a population of approximately 31,270. Shenandoah serves this customer base with digital switching technology, fiber optic transmission facilities and other copper cable distribution. Shenandoah has invested over $36 million (including over $7.8 million in digital switching technology and over $1.9 million in fiber optics facilities) in gross plant to bring state of the art telecommunications technology to its customers. Interstate, Valley and Shenandoah intend to seek Commission approval to serve the public as PCS operators.

The Companies are vitally interested in the outcome of this proceeding. The rules established for the delivery of PCS will have far-reaching consequences for the Companies and their customers. The Companies' local exchange telephone operations will be directly affected by increasing competition from wireless providers, and this proceeding will determine the range of

competitive responses available to local exchange carriers such as the Companies. The Companies' cellular radio affiliates will be similarly affected, because the ability of an incumbent cellular carrier to deliver new and advanced services under competitive terms and conditions will be directly affected by this proceeding.

II. DISCUSSION

A. Awarding Five (5) Licenses, at Least Two (2) to National Consortia and the Remainder, within Each MSA or RSA, to Local Operators, Would Best Advance the Commission's Policies and Serve the Public Interest.

The Notice seeks comments on four PCS service area options: (1) the 487 "Basic Trading Areas;" (2) the 47 "Major Trading Areas;" (3) the 194 telephone "Local Access and Transport Areas;" and (4) a nationwide service area. The Notice suggests the possibility of granting licenses to a mix of local and national licensees.[4/] The Notice also seeks comment on the merits of authorizing four or five PCS operators per market.[5/]

As is discussed in more detail below, the Companies propose that the Commission issue five licenses of 20 MHz each. Of these licenses, at least two (2) should be national licenses issued to consortia composed of a national manager and local operators. The

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[4/] Notice at ¶¶60-61.

[5/] Notice at ¶34.

remaining licenses would be issued to local entities operating within MSAs and RSAs.

1. Five (5) PCS Operators per Market Will Best Serve the Commission's Goals of Ensuring a Rich Range of PCS Services That Meet Consumer Needs at Reasonable Prices.

In view of the Commission's desire to provide for the widest range of PCS services at the lowest cost to consumers, the public interest will be best served by licensing as many competitors as possible in each market. The Companies support authorizing five (5) PCS operators per market.[6/] This allocation will assure the benefits of competition, namely lower prices, higher quality, greater motivation and more diverse and responsive service offerings. If the Commission is of the view that three operators will at least minimally achieve these licensing goals, then five PCS operators should work better in bringing these benefits to the public.

6/ It has been found that 20 MHz per license may be a sufficient spectrum size to implement low-cost PCS systems. See Reed, David P., Putting It All Together: The Cost Structure of Personal Communications Services, Amendment of the Commission's Rules to Establish New Personal Communications Services, Gen. Docket No. 90-314 and ET Docket No. 92-100, ("OPP Working Paper") at 41. In support of this proposition, 20 MHz of spectrum should provide a PCS operator with comparable spectrum to a cellular operator, which itself has 25 MHz of spectrum but must accommodate the older, less efficient analog mobile units now in use.

2. Granting National Licenses to Consortia Would Promote Several Commission Objectives.

The Companies propose that the Commission issue at least two (2) nationwide licenses to consortia. Each consortium would be composed of and owned by both a technically sophisticated national entity and local operators. The national manager would provide network services, technical standards, national marketing and national roaming and inter-operability among the systems within the consortium. Qualified independent local companies would build and operate most of the local PCS systems, have substantial ownership and actively participate in the consortium's management.

Each consortium would perform core national managerial and coordinating functions. It would, as the licensee, be legally responsible for the performance of its local operators. It would designate the areas within which its local owner-operators would build and later operate the PCS infrastructure. It would subsequently coordinate construction plans.

Similarly, each consortium would set national specifications for PCS equipment and system design, ensuring that regional incompatibilities would not arise within its system and that PCS would develop in a smooth, rational, and coherent way. Each consortium would require its local operators to offer a uniform floor of basic services to its customers, although local operators would remain free to offer additional services regionally. The

consortium would also be responsible for providing long-distance access (making equal access to interexchange carriers available) and guaranteeing roaming capability. Finally, the consortium would resolve problems of interference and would coordinate frequencies in adjoining areas.

Such nationwide licensing would have many benefits. Consortia whose interests are not tied exclusively to the local and the regional markets would be best equipped to serve a user population that, with a single device in hand, may roam from region to region, expecting to place and receive calls. A national consortium would be able, through early selection of a common technical standard and internal coordination, to ensure that services and equipment used in different regions of the country are compatible. Rapid development of the infrastructure necessary to support universality of service and nationwide roaming capability would also be promoted. Roaming and regional interoperability could be guaranteed, in short, in the least cumbersome fashion if the Commission licensed nationwide consortia at the outset.

National licensees would, in addition, be able to achieve economies of scale unavailable to purely regional providers. Construction plans could be standardized, parts could be prefabricated nationally and network and terminal equipment could be produced more efficiently. The cost of frequency coordination

between PCS licensees would be reduced, and opportunities for efficient channel management would be maximized. Nationwide licensees would have significant marketing advantages in developing new services and the markets for them. Early selection of a common technical standard would in turn promote the rapid investment by service providers and manufacturers. In fact, efficient buildout of a nationwide PCS backbone in the most efficient design configuration - and reduction of the tremendous delays and transaction costs attending the protracted consolidation of smaller markets - would maximize entrepreneurial opportunities for interconnection and rollout of new services.

Further, national licensing would make PCS more competitive internationally. National licensees could best contemplate, invest in, and lead the way toward developing international PCS telecommunications. They would provide the most effective competition against foreign providers, which, as the Commission notes, themselves almost exclusively possess national licenses.[7/]

The presence of at least two nationwide licensees will promote innovation and competitive diversity, especially in co-existence with smaller providers providing more customized services to local markets on an MSA/RSA basis. The same goals of multiplicity and diversity that argue for the largest feasible number of PCS

7/ Notice at ¶60.

licensees also call for different kinds of licenses, i.e., a mix of local and nationwide licenses.

3. Nationwide Licensees Should Be Chosen by a Streamlined Comparative Hearing with Stringent Eligibility and Buildout Requirements, Construction Commitments and Deadlines.

Should the Commission issue two or more nationwide licenses, then it would be practical to use a comparative hearing to award the licenses. The result would be the most qualified applicants. The cellular licensing process has shown how impractical comparative hearings can be when many licenses are to be awarded. However, lotteries present complications, costs, and embarrassments of their own and are far from an optimal way of awarding licenses. Were the Commission to award licenses to two or more national consortia, it could hold a single comparative hearing devoid of the excessive delay and time consumption that has tarnished earlier hearing efforts where more licenses were to be awarded.

Furthermore, because firms interested in forming consortia would have to make arrangements with one another before applying to the Commission, much of the potential PCS providers' structural efforts would be expended before license applications were submitted. The process of forming consortia would result in a constructive self-selection, screening out speculators and others who lack a serious intention of providing PCS service. The net result would be fewer license applications of a higher quality.

The Commission should not wait for Congress to authorize auctions before licensing PCS. Any benefits that auctions might provide are mitigated by the time it would take for them to be approved. Given the need for speeding PCS development, the Commission should move promptly through the comparative hearing route.

It is vital that the Commission both strive to preclude speculators from obtaining licenses and consider the qualifications and financial responsibility of those entities that will actually provide PCS service. There are methods that work in minimizing unqualified applicants from filing, whether these methods are used in a comparative hearing process or with a lottery:

- Strict financial and technical qualifications showings are necessary;
- Minimum construction commitments and deadlines should be established;
- Short filing windows help to weed out the application mills;
- Strict anti-trafficking rules are necessary; and
- Significant filing fees will discourage mere speculators.

Each of these requirements will help ensure that only parties who have a serious interest in delivering PCS service will apply for spectrum. This will also reduce the administrative burden on Commission resources.

4. The Commission Should Adopt the 734 MSA and RSA License Areas for Local Providers of PCS Service.

The Companies urge the Commission to adopt for PCS licensing at the local level the 734 MSA and RSA geographic designations that are currently used for cellular service and Interactive Video and Data Service licensing. This position is consistent with Commissioner Quello's statement that the MSA and RSA designations should be seriously considered for PCS licensing.[8/]

There are a number of compelling reasons for implementing these smaller service areas for PCS. First is feasibility: PCS technology, with its use of microcells, provides the capability of tailoring service to such smaller areas. Second, the MSA and RSA designations are the only option that recognizes the inherent differences between metropolitan and non-metropolitan areas. This recognition is necessary to promote the prompt, efficient development of PCS service.

Third, MSA and RSA designations will likely encourage broader participation in providing PCS, particularly by entities that are only interested in or have the resources to provide service to small areas. As a practical matter, most mid-size or smaller local exchange carriers and other regional providers of

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[8/] Separate Statement of Commissioner James H. Quello re: Amendment of the Commission's Rules to Establish New Personal Communications Services, Erratum, released August 14, 1992.

telecommunications services do not have sufficient capabilities to operate within a larger area. Such participation would likely result in quicker deployment of PCS in non-metropolitan, less economically developed areas of the country. Licensees with larger areas would be more likely to concentrate their resources on the more profitable metropolitan areas.

The use of the MSA and RSA areas should also yield greater diversity and broader technical and service innovation than could be expected from a smaller number of regional or nationwide providers. The Commission itself has recognized these benefits,[9/] which would enhance the Commission's goals for PCS of encouraging competition, deploying new technologies, and promoting universality.

B. Local Exchange Carriers Should Not Be Precluded from Providing PCS in Their Own Telephone Service Areas.[10/]

The Commission tentatively concluded that there is a strong case for allowing local exchange carriers to provide PCS in their own exchange service areas.[11/] The Companies agree with the

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9/ Notice at ¶59.

10/ Many of the arguments set forth below are found in the comments to the Notice filed by several local exchange carriers. See Comments of Home Telephone Company.

11/ Notice at ¶75. As for a local exchange carrier's providing of PCS services outside its exchange service area, there are no legitimate grounds to bar such service.

Commission's conclusion and urge the Commission to allow local exchange carriers full access to offer PCS inside and outside their service areas.

One of the strongest arguments for this policy is the universal service obligations of all local exchange carriers. Local exchange carriers are the workhorses of the telecommunications industry. They have had an obligation to serve the public in geographic regions where economic profitability or even viability would have prevented the furnishing of services. "Cream-skimming" has not been part of the local exchange carriers' vocabulary. They should not be precluded from implementing any new technologies which could have direct benefits on public service.

As technological advances have been made in the telecommunications industry, they have been implemented by the local exchange carriers. As a result, the telephone system has been brought from its initial use of operator-assisted manual switchboards to the present fully automated digital system. PCS is another new technology that can dramatically improve local exchange service if the local exchange carriers, who are the most qualified and therefore most logical providers, are not prohibited from participation by regulatory constraints. The Commission acknowledged that PCS will likely first complement local exchange

service and later become a full fledged competitor.[12/] The local exchange carriers must be allowed to deploy this new technology if they are to continue to meet their universal service obligations.

By their participation in PCS, local exchange carriers will facilitate the rapid availability and economical deployment of PCS on account of their resources and expertise. Exchange carriers have: (1) expertise in providing existing telecommunications services, (2) an existing infrastructure, (3) the financial resources, and (4) the public service commitment to bring PCS effectively and efficiently to the public throughout the nation, in both metropolitan and non-metropolitan areas. Utilization of these resources would foster the Commission's stated goals of universality, speed of deployment, diversity of service and competitive delivery of PCS.

Provision of PCS by local exchange carriers would also enhance the utilization of the public switched network by increasing its capability and efficiency. Just as the technological evolution of the network and local exchange service has benefitted both customers and all providers, including interexchange, cellular, and local exchange carriers, so too will local exchange carrier participation in the deployment of PCS enhance these carriers' ability to support all PCS providers' needs and facilitate the

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[12/] Notice at ¶71.

interoperability of different PCS systems. Development of compatible PCS systems will mean that any PCS customer can use a PCS device from any location. This is critical to the universality of PCS. In addition, exchange carrier participation and utilization of the exchange network will result in integration of PCS with that network. Such integration will allow PCS customers to utilize many intelligent network features of the public switched network. For all these reasons, local exchange carrier participation will assure that PCS will be brought to the marketplace as quickly as possible.

Local exchange carrier provision of PCS will benefit local exchange customers. As stated above, exchange carriers have historically implemented new technology as part of their universal service and public interest obligations. This has resulted in not only vast improvements in service and enhanced offerings but also greater efficiencies and lower costs to customers. Deployment of PCS is no exception. It would enable exchange carriers to operate more efficiently and thereby provide savings for existing and future customers. Also, participation in PCS would help offset possible revenue reduction which could result from customer migration from landline to wireless services. If such losses occur and are not offset, the remaining landline customers would have to cover the fixed service costs.

Another aspect of the benefits to customers of allowing exchange carriers to provide PCS is the virtual assurance that PCS would be offered in non-metropolitan parts of the country. Non-local exchange carrier providers of PCS will look to serve the most densely populated and most profitable areas first, leaving the isolated and less economically feasible regions unserved. It is vital that PCS be available to these non-metropolitan areas, both to serve the residents and to promote the economic development of those regions. The local exchange carriers have consistently demonstrated a commitment to service and have the ability to bring PCS to non-metropolitan areas quickly.

Local exchange carriers' provision of PCS will also contribute to the competitive delivery of PCS. The level of interest in PCS by exchange carriers, both large and small, is evidenced by the number of experimental licenses for PCS filed by local exchange carriers and by their participation in this proceeding. This demonstrates that local exchange carriers would deploy PCS in their service areas. In so doing, they would provide expanded service offerings to their customers efficiently and economically. This would also result in opportunities for creative and adaptive PCS offerings. Taken together, these benefits of local exchange carriers' provision of PCS should lead to enhanced competition by other providers and assure, as indicated above, that the

infrastructure is adequately developed to enable and to promote PCS deployment.

For each of the foregoing reasons, the Companies also oppose the option of restricting the amount of spectrum that a local exchange carrier may obtain for PCS within its own service area.[13/] Any such artificial limitations on the amount of PCS spectrum available to local exchange carriers would only restrict the benefits to be realized from the participation of local exchange carriers in the development and provision of PCS services to the public.

In summary, full participation by local exchange carriers in the provision of PCS would foster all four of the Commission's stated objectives for PCS.

C. Cellular Carriers Should Not Be Precluded from Providing PCS in Their Own Service Areas.

The Commission concluded in its Notice that PCS and cellular licensees serving the same areas would compete on price and quality even though they may not be offering an identical package of services. The Commission expects that this competition will benefit the consumer by lowering prices and increasing the

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13/ Notice at ¶77. But see OPP Working Paper at 60, where it is recommended that local exchange carriers should be allowed to participate fully in PCS, provided there are adequate safeguards against both discriminatory interconnection practices and cross-subsidy of PCS with revenues from regulated telephone services.

availability of innovative products and services.[14/] The Commission stated that it could be argued, however, that competitive benefits might be reduced if existing cellular licensees were permitted to acquire PCS licenses within their cellular service areas. Thus, the Commission tentatively proposes to permit cellular providers to obtain PCS spectrum licenses outside of their cellular service areas, and seeks comments on whether cellular service providers also should be allowed to obtain PCS spectrum within their cellular service areas.[15/]

The Companies urge that there be no limitation on the ability of existing cellular licensees to acquire PCS authorizations, both within their cellular service areas and other areas. As long as others are licensed and there are a variety of providers in the market, the goal of competition will be realized. Furthermore, there should be no limitations on the amount of spectrum for which cellular carriers should be eligible.[16/] At this point, there is no certainty as to the extent of overlap between the types and uses of PCS and cellular services. Furthermore, cellular carriers (just

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[14/] Notice at ¶63.

[15/] Notice at ¶¶64, 67.

[16/] See, e.g., OPP Working Paper at 58, where it is suggested that "economies of scope" and "first mover advantage" mean that 10 MHz of PCS spectrum (as opposed to 20 MHz for non-cellular PCS providers) will be sufficient for cellular carriers.

as local exchange carriers) offer experience, expertise and existing wireless infrastructures that would make them ideal providers of new PCS. Restricting the amount of spectrum available to cellular carriers would impair the fullest, promptest and most efficient development of PCS without any compelling justification.

Without prejudice to its position with respect to cellular eligibility for PCS licenses, the Companies support further liberalization of the Commission's existing cellular rules (47 C.F.R. §22.930) to permit cellular licensees to provide PCS - type services.[17/] Any time that better use can be made of existing spectrum, the public benefits. To the extent better use can be made of existing spectrum to implement advanced cellular technologies and to provide auxiliary services, the Commission should not hesitate. There should be no unnecessary or artificial limitations on the ability of existing cellular carriers to maximize their range of offerings to consumers.

III. CONCLUSION

The Companies believe that the rapid and successful introduction of PCS will be best served by the awarding of at least two nationwide licenses to consortia of national managers and local operators through a single comparative hearing, and the awarding

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[17/] Notice at ¶70.

of the remaining of the five 20 MHz licenses to local operators at the MSA/RSA level. This number of licenses and mixture of license types will result in the best possible climate for rapid development of PCS and vigorous competition. Furthermore, in light of their demonstrated track record for performance and expertise, existing infrastructures and needs within their own industries, cellular carriers and local exchange carriers should be eligible for full, unrestricted PCS spectrum use.

WHEREFORE, the Companies respectfully urge the Commission to adopt and implement the recommendations contained herein.

Respectfully submitted,

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Dated: January 8, 1993

CERTIFICATE OF SERVICE

I, Jamie C. Whitney, a secretary in the law offices of Gurman, Kurtis, Blask and Freedman, Chartered, do hereby certify that I have on this 8th day of January, 1993, had copies of the foregoing "REPLY COMMENTS" mailed by U.S. first class mail, postage prepaid, to those on the attached service list.

Jamie C. Whitney